

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections in the outstanding Office Action are respectfully requested in view of the foregoing amendments and the following remarks.

Interview Summary

Applicants thank the Examiner for granting a telephone interview with Applicants' representative, Sean Myers-Payne, on July 11, 2006. During the interview, Applicants' representative explained that the cited art failed to disclose Applicants' claimed invention, particularly noting that the use of "solidified tumor tissues or cells" was not disclosed in the cited art. Applicants' representative pointed out that the specification, particularly at page 7, second full paragraph, described how "solidified" tumor materials could be prepared, and that such methods included the use of fixing agents, such as formalin, alcohols, glutaraldehyde, etc., freezing, and paraffin embedding. It was pointed out that the prior art did not disclose the use of such fixed cells or tissues.

The Examiner explained that it was unclear how the fixing of cells or tissues, according to the methods listed in Applicants' specification, would result in physical changes in those tissues or cells, such that Applicants' "solidified" tumor materials would be different from those of the cited art. The Examiner suggested Applicants file a written response explaining how "solidified" tumor tissues or cells would differ from un-fixed tissues or cells.

The arguments herein restate all of the positions Applicants' representative made during the interview.

Summary of Status of Amendments and Office Action

In the present amendment, claims 1 and 3-19 are pending in the application, with claims 1 and 6 being independent. The Office Action rejects claims 1, 3-7, 9, 11-16, 18, and 19, and objects to claims 8, 10, and 17 as being dependent on a rejected base claim.

Applicants thank the Examiner for the indication of allowable subject matter in claims 8, 10, and 17.

Information Disclosure Statement

Applicants thank the Examiner for indicating consideration of the Information Disclosure Statement filed January 24, 2006.

Rejection Under 35 U.S.C. 102(b)

The Office Action rejects claims 1, 3-7, 9, 11-16, 18, and 19 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,861,159 to Pardoll et al. ("Pardoll"). In response, as noted above, Applicants respectfully disagree with the rejection and submit that Pardoll fails to disclose all of the elements of Applicants' claimed invention.

As noted, Applicants submit that Pardoll does not disclose Applicants' claimed invention, in particular, the use of "solidified tumor tissues or cells." To the extent that Pardoll discloses a use of tumor tissues or cells in which the tissues or cells are somehow treated, it is by irradiation. (See column 4, line 15.) Applicants submit that irradiation could result in death to the cell, but it would not result in any of the physical

changes that would cause those cells to resemble Applicants' "solidified" tumor tissues or cells.

Applicants' specification, particularly at page 7, second full paragraph, describes how "solidified" tumor materials can be prepared, and such methods include the use of fixing agents, such as formalin, alcohols, glutaraldehyde, etc., freezing, and paraffin embedding. Applicants respectfully submit that such processes result in cells that are "solid," which are not only dead, but *insolubilized*. In solidified tissue, any molecules, particularly biopolymers that are soluble in intact cells, are degenerated and insolubilized by being adhered by solid cellular components.

In the use according to the invention, the insolubilized antigens contained in the claimed microparticles are not diffused *in vivo* and therefore not easily diluted, as they are fixed in the microparticle. Thus, the antigens in the present invention are not soluble, but fixed. Such fixed antigens are successfully subjected to phagocytosis by antigen-presenting cells and the antigens so taken up are then subjected to further processing.

Applicants respectfully note that the Office Action has not advanced any theory that would support a contention that Pardoll discloses anything but *soluble* antigens. Applicants have not only explained how the claimed solidified tumor tissues or cells are a physically different cellular material, but amended the claims to expressly *exclude* the use of soluble tumor antigen (see Amendment filed January 24, 2006). Applicants respectfully submit that the claims clearly distinguish Pardoll and respectfully request withdrawal of the rejection over Pardoll.

CONCLUSION

For the foregoing reasons, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested.

If the Examiner has any questions, or wishes to discuss this matter, the Examiner is respectfully invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
Tadao OHNO et al.

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August 3, 2006
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